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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

NORTEK AIR SOLUTIONS, LLC,

**Plaintiff and Counterclaim-
Defendant,**

vs.

**ENERGY LABS INC., DMG CORPORATION,
and DMG NORTH, INC.**

**Defendants and Counterclaim-
Plaintiffs.**

Case No. 5:14-cv-02919-BLF

VERDICT FORM

When answering the following questions and filling out this Verdict Form, please follow the directions provided throughout the form. Your answer to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this court as our verdict in this case.

I. INFRINGEMENT

QUESTION 1: DIRECT INFRINGEMENT (SAMSUNG AHQ)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below directly infringed the listed claims of Nortek's Patents in connection with the Samsung AHQ job (Energy Labs Job # 7335)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG North
Patent 442 Claim 16	(1.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(1.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 442 Claim 26	(1.3) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(1.4) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 251 Claim 8	(1.5) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(1.6) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 365 Claim 15	(1.7) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(1.8) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 283 Claim 29	(1.9) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(1.10) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 086 Claim 40	(1.11) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(1.12) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 2: INDIRECT INFRINGEMENT - INDUCEMENT (SAMSUNG AHQ)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below induced infringement of the listed claims of Nortek's Patents in connection with the Samsung AHQ job (Energy Labs Job # 7335)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG North
Patent 442 Claim 16	(2.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(2.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 442 Claim 26	(2.3) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(2.4) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 251 Claim 8	(2.5) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(2.6) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 365 Claim 15	(2.7) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(2.8) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 283 Claim 29	(2.9) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(2.10) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 175 Claim 8	(2.11) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(2.12) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 086 Claim 40	(2.13) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(2.14) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 3: INDIRECT INFRINGEMENT – CONTRIBUTORY INFRINGEMENT (SAMSUNG AHQ)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below contributorily infringed the listed claims of Nortek's Patents in connection with the Samsung AHQ job (Energy Labs Job # 7335)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG North
Patent 175 Claim 8	(3.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(3.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 4: DIRECT INFRINGEMENT (CAMP PENDLETON NAVAL HOSPITAL)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below directly infringed the listed claims of Nortek's '442 Patent in connection with the Camp Pendleton Naval Hospital job (Energy Labs Job # 6163)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG Corp.
Patent '442 Claim 16	(4.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(4.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent '442 Claim 26	(4.3) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(4.4) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 5: INDIRECT INFRINGEMENT – INDUCEMENT (CAMP PENDLETON NAVAL HOSPITAL)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below induced infringement of the listed claims of Nortek's Patents in connection with the Camp Pendleton Naval Hospital job (Energy Labs Job # 6163)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG Corp.
Patent 442 Claim 16	(5.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(5.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 442 Claim 26	(5.3) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(5.4) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 6: DIRECT INFRINGEMENT (LAX DELTA TERMINAL 5)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below directly infringed the listed claim of Nortek's '283 Patent in connection with the LAX Delta Terminal 5 job (Energy Labs Job # 6967)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG Corp.
Patent '283 Claim 29	(6.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(6.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 7: INDIRECT INFRINGEMENT - INDUCEMENT (LAX DELTA TERMINAL 5)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below induced infringement of the listed claims of Nortek's Patents in connection with the LAX Delta Terminal 5 job (Energy Labs Job # 6967)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG Corp.
Patent '283 Claim 29	(7.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(7.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 8: DIRECT INFRINGEMENT (SANTA CLARA GATEWAY PHASE 2)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below directly infringed the listed claims of Nortek's Patents in connection with the Santa Clara Gateway Phase 2 job (Energy Labs Job # 7007)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG North
Patent '251 Claim 8	(8.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(8.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent '365 Claim 15	(8.3) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(8.4) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 9: INDIRECT INFRINGEMENT – INDUCEMENT (SANTA CLARA GATEWAY PHASE 2)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below induced infringement of the listed claims of Nortek's Patents in connection with the Santa Clara Gateway Phase 2 job (Energy Labs Job # 7007)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG North
Patent 251 Claim 8	(9.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(9.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 365 Claim 15	(9.3) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(9.4) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 10: DIRECT INFRINGEMENT (LAX TERMINAL 1)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below directly infringed the listed claims of Nortek's Patents in connection with the LAX Terminal 1 job (Energy Labs Job # 8209)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG Corp.
Patent 283 Claim 29	(10.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(10.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 11: INDIRECT INFRINGEMENT - INDUCEMENT (LAX TERMINAL 1)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below induced infringement of the listed claims of Nortek's Patents in connection with the LAX Terminal 1 job (Energy Labs Job # 8209)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG Corp.
Patent 283 Claim 29	(11.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(11.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Patent 475 Claim 8	(11.3) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(11.4) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

QUESTION 12: INDIRECT INFRINGEMENT - CONTRIBUTORY INFRINGEMENT (LAX TERMINAL 1)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below contributorily infringed the listed claims of Nortek's Patents in connection with the LAX Terminal 1 job (Energy Labs Job # 8209)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Labs	DMG Corp.
Patent 475 Claim 8	(12.1) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(12.2) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1 **II. INVALIDITY**

2 **QUESTION 13: INVALIDITY ('442 Patent, Claim 16)**

3 For each of the grounds listed below, have the Defendants proven by clear and convincing
4 evidence that Claim 16 of the '442 Patent is invalid? (Answer separately for each ground)

5 **Answer "Yes" or "No."** (An answer of "Yes" is a finding for **Defendants**. An answer of
6 "No" is a finding for **Nortek**.)

7 (13.1) Anticipated by the Governair Carolinas
8 Medical Center Installation

Yes No

9 (13.2) Anticipated by PACE Small Cabinet
10 Fan Product

Yes No

11 (13.3) Anticipated by CLEANPAK Small
12 Cabinet Fan Product

Yes No

13 (13.4) Anticipated by PACE Small Cabinet
14 Fans (SCF) Air Handling Units Catalog

Yes No

15
16 **QUESTION 14: INVALIDITY ('442 Patent, Claim 26)**

17 For each of the grounds listed below, have the Defendants proven by clear and convincing
18 evidence that Claim 26 of the '442 Patent is invalid? (Answer separately for each ground)

19 **Answer "Yes" or "No."** (An answer of "Yes" is a finding for **Defendants**. An answer of
20 "No" is a finding for **Nortek**.)

21 (14.1) Rendered obvious by the PACE Small
22 Cabinet Fan Product in view of the
knowledge of a person of skill in the art

Yes No

23 (14.2) Rendered obvious by the CLEANPAK
24 Small Cabinet Fan Product in view of the
25 knowledge of a person of skill in the art

Yes No

26 (14.3) Rendered obvious by PACE Small
27 Cabinet Fans (SCF) Air Handling Units
28 Catalog in view of the knowledge of a person
of skill in the art

Yes No

QUESTION 15: INVALIDITY ('251 Patent, Claim 8)

For each of the grounds listed below, have the Defendants proven by clear and convincing evidence that Claim 8 of the '251 Patent is invalid? (Answer separately for each ground)

Answer "Yes" or "No." (An answer of "Yes" is a finding for Defendants. An answer of "No" is a finding for Nortek.)

(15.1) Rendered obvious by the PACE Small Cabinet Fan Product in view of the knowledge of a person of skill in the art

Yes _____

No

(15.2) Anticipated by the Temtrol DHS Computer Room Installation

Yes _____

No

QUESTION 16: INVALIDITY ('365 Patent, Claim 15)

For each of the grounds listed below, have the Defendants proven by clear and convincing evidence that Claim 15 of the '365 Patent is invalid? (Answer separately for each ground)

Answer "Yes" or "No." (An answer of "Yes" is a finding for Defendants. An answer of "No" is a finding for Nortek.)

(16.1) Anticipated by the Temtrol DHS Computer Room Installation

Yes _____

No

(16.2) Rendered obvious by the PACE Small Cabinet Fan Product in view of the knowledge of a person of skill in the art

Yes _____

No

QUESTION 17: INVALIDITY ('086 Patent, Claim 40)

For each of the grounds listed below, have the Defendants proven by clear and convincing evidence that Claim 40 of the '086 Patent is invalid? (Answer separately for each ground)

Answer "Yes" or "No." (An answer of "Yes" is a finding for Defendants. An answer of "No" is a finding for Nortek.)

(17.1) Anticipated by the Temtrol DHS Computer Room Installation

Yes

No _____

(17.2) Rendered obvious by the PACE Small Cabinet Fan Product in view of the knowledge of a person of skill in the art

Yes _____

No ☒

QUESTION 18: INVALIDITY ('283 Patent, Claim 29)

For each of the grounds listed below, have the Defendants proven by clear and convincing evidence that Claim 29 of the '283 Patent is invalid? (Answer separately for each ground)

Answer "Yes" or "No." (An answer of "Yes" is a finding for Defendants. An answer of "No" is a finding for Nortek.)

(18.1) Anticipated by Temtrol's DHS Computer Room Installation

Yes ☒

No _____

(18.2) Rendered obvious by the PACE Small Cabinet Fan Product in view of the knowledge of a person of skill in the art

Yes _____

No ☒

(18.3) Rendered obvious by Governair's Computer Associates Installation and Governair's U.S.D.A. Installation

Yes _____

No ☒

QUESTION 19: INVALIDITY ('175 Patent, Claim 8)

For each of the grounds listed below, have the Defendants proven by clear and convincing evidence that Claim 8 of the '175 Patent is invalid? (Answer separately for each ground)

Answer "Yes" or "No." (An answer of "Yes" is a finding for Defendants. An answer of "No" is a finding for Nortek.)

(19.1) Anticipated by the Temtrol DHS Computer Room Installation

Yes ☒

No _____

(19.2) Anticipated by the Governair Computer Associates Installation

Yes _____

No ☒

(19.3) Rendered obvious by the PACE Small Cabinet Fan Product in view of the knowledge of a person of skill in the art

Yes _____

No ☒

Please Read Before You Proceed:

If you found any of the claims above both infringed and not invalid, proceed to answer the following questions in Sections III and IV. If you did not find any claims both infringed and not invalid, do not answer the questions in Section III or Section IV and proceed to the end of the form.

III. DAMAGES

QUESTION 20: PRICE EROSION

If you find that Nortek has proven to a reasonable certainty that it discounted prices on the sales of its products as a result of Defendants' infringement, provide below the amount Nortek should receive as compensation for having to reduce its prices due to the infringement:

\$ 0

1 **IV. WILLFULNESS**

2 **QUESTION 21: WILLFUL INFRINGEMENT (ENERGY LABS)**

3 Has Nortek proven by a preponderance of the evidence that Energy Labs willfully infringed the
4 below patents?

5 **Answer "Yes" or "No."** (An answer of "Yes" is a finding for Nortek. An answer of "No" is a
6 finding for Energy Labs.)

(21.1) 442 Patent	Yes [] No [/]
(21.2) 251 Patent	Yes [] No [/]
(21.3) 365 Patent	Yes [] No [/]
(21.4) 283 Patent	Yes [] No [/]
(21.5) 175 Patent	Yes [] No [/]
(21.6) 086 Patent	Yes [] No [/]

QUESTION 22: WILLFUL INFRINGEMENT (DMG CORPORATION)

Has Nortek proven by a preponderance of the evidence that DMG Corporation willfully infringed the below patents?

Answer "Yes" or "No." (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for DMG Corp.)

(22.1) 442 Patent	Yes [] No [/]
(22.2) 283 Patent	Yes [] No [/]
(22.3) 175 Patent	Yes [] No [/]

QUESTION 23 WILLFUL INFRINGEMENT (DMG NORTH)

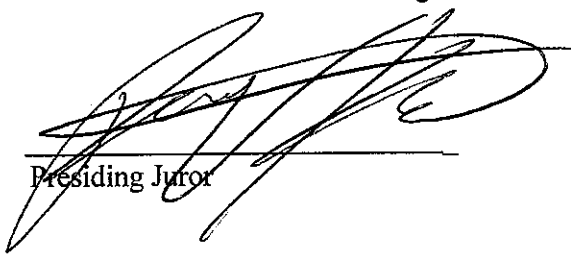
Has Nortek proven by a preponderance of the evidence that DMG North, Inc. willfully infringed the below patents?

Answer "Yes" or "No." (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for DMG North.)

(23.1) 442 Patent	Yes [] No [<input checked="" type="checkbox"/>]
(23.2) 251 Patent	Yes [] No [<input checked="" type="checkbox"/>]
(23.3) 365 Patent	Yes [] No [<input checked="" type="checkbox"/>]
(23.4) 283 Patent	Yes [] No [<input checked="" type="checkbox"/>]
(23.5) 175 Patent	Yes [] No [<input checked="" type="checkbox"/>]
(23.6) 086 Patent	Yes [] No [<input checked="" type="checkbox"/>]

1 You have now reached the end of the verdict form and should review it to ensure it
2 accurately reflects your unanimous determinations. The Presiding Juror should then sign and date
3 the Verdict Form in the spaces below and notify the Security Guard that you have reached a verdict.
4 The Presiding Juror should retain possession of the Verdict Form and bring it when the jury is
5 brought back into the courtroom.

6 DATED 08/10, 2016



Presiding Juror